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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,172	11/26/2003	James A. McEwan	HOET-16	5747
53450 7590 07/31/2009 KRIEG DEVAULT LLP ONE INDIANA SQUARE SUITE 2800 INDIANAPOLIS, IN 46204-2079				
EXAMINER				
TRIEU, THAI BA				
ART UNIT		PAPER NUMBER		
3748				
MAIL DATE		DELIVERY MODE		
07/31/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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10723172	11/26/03	MCEWAN, JAMES A.	HOET-16

KRIEG DEVAULT LLP
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SUITE 2800
INDIANAPOLIS, IN 46204-2079

EXAMINER

THAI BA TRIEU

ART UNIT	PAPER
3748	20090728

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Commissioner for Patents

1. The Examiner's Answer of December 01, 2006 is vacated.
2. The Supplemental Examiner's Answer of April 19, 2007 is also vacated.
3. In the Examiner's Answer mailed on December 01, 2006, the examiner inadvertently omitted the rejection of Claim 1 under the judicially created doctrine of obviousness-type double patenting. Accordingly, this Examiner's Answer addresses the rejection of claim 1. In addition, the Examiner's Answer clearly identifies the grounds of rejection withdrawn by the examiner.
4. On April 23, 2007, Appellant has filed an "Agreement to End Appeal and Reopen Prosecution" so that claims 14-20 can be allowed, and claims 2-4 and 11-13 can be allowed once rewritten in independent form to include the limitations of the base and any intervening claims, is acknowledged by the examiner.
5. On June 27, 2008, Appellant filed a Miscellaneous Letter that Appellant intended to maintain the pending appeal. However, this Letter was missing in the official records of the PTO. This Letter was resubmitted on January 23, 2009 and includes copies of: (1) the "Miscellaneous Letter"; (2) the Transmittal Form; and (3) the self-addressed, stamped postcard.
The resubmitted Letter on January 23, 2009, of Appellant who has wanted to maintain the pending appeal is acknowledged by the examiner.

/Thai-Ba Trieu/
Primary Examiner, Art Unit: 3748
July 28, 2009